

CITY OF WESTMINSTER
ORDINANCE NO. 2601

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF WESTMINSTER, CALIFORNIA, ADDING CHAPTER 8.06 (SIDEWALK VENDING) TO TITLE 8 (HEALTH AND SAFETY) ESTABLISHING A SIDEWALK VENDOR REGULATORY SCHEME, REPEALING CHAPTER 10.44.120 (PEDDLERS & VENDORS) TO TITLE 10 (VEHICLES & TRAFFIC), AND ADDING CHAPTER 10.45 (SALE OF GOODS FROM VEHICLES) TO TITLE 10 (VEHICLES & TRAFFIC) TO ALIGN THE SIDEWALK VENDOR REGULATORY SCHEME WITH THE MOBILE FOOD VEHICLES REGULATIONS.

WHEREAS, this ordinance adds two new chapters to the Westminster Municipal Code. Chapter 8.06 adds a regulatory framework for sidewalk vendors and Chapter 10.45 adds a parallel regulatory scheme for mobile food vendors (food trucks); and

WHEREAS, both new chapters are aligned with one another, to some extent, but the State of California has imposed many limitations on what cities can regulate with respect to sidewalk vendors, which is why the regulations pertaining to food trucks is more comprehensive; and

WHEREAS, a separate ordinance will be concurrently presented to the City Council for their consideration amending Chapter 9.61 (Special Event Permit) to Title 9 (Public Peace, Morals, and Welfare) by incorporating food truck gatherings in the special event permit process; and

Sidewalk Vendor Regulations

WHEREAS, Senate Bill ("SB") 946 and SB 972 were both signed into law and became effective January 1, 2019, and January 1, 2023, respectively. Both SB 946 and 972 (codified as California Government Code Section 51038 and 51039) have significantly limited the authority of cities and counties to regulate sidewalk vendors; and

WHEREAS, this ordinance will update the City of Westminster Municipal Code to allow sidewalk vending, consistent with SB 946 and SB 972, which now prohibit cities from adopting regulations that do any of the following:

- Restricting the overall number of sidewalk vendors allowed to operate within the jurisdiction, except if directly related to objective health, safety, or welfare concerns.
- Requiring sidewalk vendors to obtain the consent or approval of any nongovernmental entity or individual before selling goods or merchandise.
- Requiring sidewalk vendors to operate within specific parts of the public right-of-way, except if directly related to objective health, safety, or welfare concerns.

- Requiring sidewalk vendors to operate only in designated neighborhoods or areas, except if directly related to objective health, safety, or welfare concerns.

WHEREAS, Chapter 8.06, consistent with state law, will regulate the time, place, and manner in which sidewalk vending is conducted, by imposing the following:

- Limits on hours of operation.
- Requirements to maintain minimum sanitary standards and conditions.
- Requirements to ensure compliance with the Americans with Disabilities Act and other disability access standards.
- Requiring a sidewalk vending permit, business license, California Department of Tax and Fee Administration seller's permit, and other licenses from other state or local agencies.
- Requiring a sidewalk vendor to submit certain information on his or her operations.
- Requiring compliance with other generally applicable laws.

WHEREAS, the newly enacted laws prohibit local authorities from prohibiting some types of sidewalk vendors in public parks; and

WHEREAS, new Chapter 8.06 prohibits sidewalk vendors within the immediate vicinity of a permitted certified farmers' market, filming permit locations, parade, or an outdoor concert, during operating hours of that event; and

WHEREAS, Chapter 8.06 provides that sidewalk vendors cannot be cited, fined, or prosecuted for a violation of any rule or regulation that is inconsistent with the Government Code. Chapter 8.06 does not set forth criminal penalties for violations of the sidewalk vending ordinance because violations may only now be punished with administrative citations; and

WHEREAS, since SB 972 significantly altered the California Retail Food Code ("CalCode") relevant to the preparation and sale of food by sidewalk vendors and other compact mobile food operations ("CMFOs"), Chapter 8.06 was drafted to ensure consistency with the new state mandate; and

WHEREAS, Chapter 8.06 reflects the new equipment, operational, and permitting requirements found in SB 972. Some view these changes as "reduced" or "relaxed" health and sanitary requirements for sidewalk vendors. The new law is aligned with the state equipment requirements for CMFOs, streamlines permitting processes for CMFOs and the facilities that support them, and

WHEREAS, consistent with SB 972, WMC Chapter 8.06 provides that a health permit from the County will not always be required to allow sidewalk vendors and other compact mobile food operations with 25 square feet or less of display area that sell only bagged snacks, cans of soda, bottled water, whole fruits and vegetables, canned goods that do not need to be refrigerated, and other similar foods; and

WHEREAS, the proposed ordinance states that an unenclosed mobile food operation facility, a category that includes most sidewalk vendors and other compact mobile food operations, are now permitted to conduct what is called, "limited food preparation" "in the field" under the CalCode; and

Sales of Goods from Vehicles (Regulations) – Chapter 10.45

WHEREAS, the purpose of adding Chapter 10.45 is to align the sidewalk vending regulations with mobile food truck regulations, although state law has not limited cities' ability to enact stricter health, safety and welfare regulations pertaining to food trucks; and

WHEREAS, Section 22455 of the California Vehicle Code authorizes municipalities to regulate the type of vending from motor vehicles and the time, place, and manner of vending from vehicles upon any street in order to promote the public safety; and

WHEREAS, vending from mobile vending facilities on public streets creates the potential for safety hazards, such as, but not limited to, encouraging pedestrians to cross mid-block to purchase food. In addition, mobile food truck vendors who fail to park their mobile vending facilities on public streets in a safe manner during a transaction, attract customers onto public roadways, creating further traffic and public safety hazards; and

WHEREAS, the City of Westminster is authorized to enact and enforce the following regulations concerning food trucks:

- Requiring mobile food trucks to obtain the consent or approval of any nongovernmental entity or individual before selling goods or merchandise on private property.
- Requiring mobile food trucks to operate within specific parts of the public right-of-way, to protect the public health, safety or welfare concerns.
- Requiring mobile food trucks to operate only in designated areas of the city.
- Limiting hours of operation of mobile food trucks.
- Enforcing requirements to maintain sanitary conditions.
- Requiring a mobile vending permit, business license, California Department of Tax and Fee Administration seller's permit and County Health Department permit.
- Requiring a mobile food vendor to submit certain information on his or her operations.
- Requiring compliance with other generally applicable laws.
- Cities are not restricted in the type of penalties for violations of mobile food truck regulations as they are with respect to sidewalk vendors.

WHEREAS, it is appropriate to establish reasonable regulations to govern mobile food vending in the City of Westminster, in an effort to provide reasonable opportunities for mobile food vendors to operate in the City; and

WHEREAS, the establishment of a regulatory framework for sidewalk vendors program and food trucks will benefit the City on the whole by facilitating and promoting entrepreneurship; and

WHEREAS, sidewalk vendors and food trucks both seek and do draw patrons which can, if left unregulated, create serious health and safety problems by detrimentally impacting the pedestrian movement on sidewalks and through cross walks, impeding the response time of safety personnel, and impacting access and egress to and from businesses; and

WHEREAS, a well-regulated sidewalk and food truck vending program can promote economic opportunity while protecting the health, safety and welfare of residents; and

WHEREAS, the City Council desires to impose reasonable time, place, and manner restrictions on sidewalk and food truck vendors to ensure the safety of sidewalk vendors, their patrons, the general public and to prevent unreasonable interference with residents' enjoyment of peace and quiet in the City.

NOW, THEREFORE, THE MAYOR AND CITY COUNCIL OF THE CITY OF WESTMINSTER HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Chapter 8.06, Sidewalk Vending is hereby added to Title 8 (Health & Safety) of the Westminster Municipal Code as follows:

Chapter 8.06 SIDEWALK VENDING

8.06.010 Definitions

For purposes of this Chapter, the following words and phrases shall have the following meanings. Whenever any words or phrases used herein are not defined, but are defined in the California Health and Safety Code, Business & Professions Code, or the Vehicle Code, such definitions shall apply. If a term or phrase is not defined in this part, or elsewhere in this Code, the most common dictionary definition is presumed to be correct.

"Auxiliary Handwashing and Warewashing Facilities" means a nearby sanitary standalone sink facility to satisfy the County Health Department requirement of having four sinks attached to the vending cart or stand.

"Cart" means a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance used for Sidewalk Vendor Activity.

"Certified Farmers' Market" shall be as defined in Section 27512 of the California Health and Safety Code.

"City Building" means any building and the abutting parking lot(s) which is owned or occupied by the City of Westminster or any of its Departments and which is used for public purposes.

“City Property” means all property owned or controlled by the City, including, but not limited to, buildings, alleys, parks, pathways, streets, parking lots, sidewalks, and walking trails.

“Compact Mobile Food Operation” is a mobile food facility that operates from an individual or from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance. Such an operation would be restricted to limited food preparation. In certain circumstances operators are not required to obtain a health permit from the local health department.

“Civic Center” means the area in the City of Westminster, County of Orange bounded by All American Way on the east, Westminster Boulevard to the north, Jackson Street on the west, and 13th Street on the south.

“Community Development Director” means the Community Development Director or a designee they select to make determinations pertaining to this chapter.

“Fire Station” means any facility where fire engines and other equipment of the Orange County Fire Authority are housed.

“Food” means any item provided in Health and Safety Code Section 113781, or any successor section.

“Goods” or “merchandise” includes items and products of every kind and description, including all foods, produce and beverage items.

“Hearing Officer” is the contractor hired by the City to impartially consider appeal requests and decide on the outcome of appeals.

“Integral Equipment” for purposes of a compact mobile food operation facility, means both equipment that is permanently attached to the primary unit and equipment that is securely fastened to the primary unit. The purpose is to allow for the construction of modular carts with flexible cooking uses, carts that can be disassembled for transportation and cleansing, and carts that incorporate already-existing and approvable equipment that can be securely fastened to a cart without being permanently welded to the primary unit.

“Limited Food Preparation” means permitted food preparation activities “in the field” rather than at a commissary, to include such activities as 1) slicing and chopping of non-potentially hazardous fruits and vegetables; 2) pre-cooking food in an approved kitchen and “hot-holding” or “cold-holding” that food prior to service from a vending cart; 3) re-heating food that was previously prepared in an approved kitchen.

“Marijuana” means both medical marijuana and non-medical marijuana.

“Merchandise” means any tangible personal property that can be sold and immediately obtained from a Sidewalk Vendor, excluding Food. Items for rent shall not be considered Merchandise. Merchandise excludes any Service.

“Park” means each and every park recreation center, sporting field, hiking trail, walking track, garden, barbecue, picnic area, and every other recreation facility owned, managed and/or controlled by the City and/or under the jurisdiction of the City including parking lots attached thereto.

“Parkway” means that portion of a public street which is not improved for actual street, curb, gutter, or sidewalk use, and which is available for planting, landscaping, and maintaining street trees.

“Pathway” means a paved path or walkway owned by the City or other public entity that is specifically designed for pedestrian travel, other than a sidewalk.

“Person” means and includes all person or persons, domestic and foreign corporations, limited liability company, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, Massachusetts Trust, business or common law trusts, societies, and individuals transacting and carrying on any business in the city.

“Police Station” means any facility where police vehicles and other equipment of the City Police Department are housed.

“Reduced sink, water tank and water heating requirements” means that if a compact mobile food operation is not handling raw meat on site, the sidewalk vendor is exempt from the three-compartment warewashing sink requirement, allowing the operator to carry spare utensils as an alternative. Also, the operator is exempt from the requirement of having a water heater, and also allows these small facilities to operate with a smaller integral water tank.

“Reduced Testing Requirements” means a food handler’s card from the County Health Department required for operation of a compact mobile food operation, otherwise known as the standard food safety knowledge requirement for restaurant employee and other workers in the food retail industry. In most cases, the food handler’s card can be obtained on-line.

“Residential Zone” means any area zoned or used exclusively as residential in Westminster. This includes the public sidewalk of residential streets, directly adjacent to residential zoning.

“Roaming Sidewalk Vendor” means a Sidewalk Vendor who moves from place-to-place and stops only to complete a transaction.

“Sidewalk” means that portion of a highway, other than the roadway, set apart by curbs, barriers, markings or other delineation specifically designed for pedestrian travel and that is owned by the City or other public entity, excluding any Parkway.

“Sidewalk Vendor” or “Vendor” means a person(s) who sells Food or Merchandise from a Cart, compact mobile food operation or from one’s person, upon a Sidewalk, Pathway or Park.

“Sidewalk Vendor Activities” or “Sidewalk Vending Activity” means actions that qualify a person as a Sidewalk Vendor or actions done in anticipation of becoming a Sidewalk Vendor such as, but not limited to, placement, or maintenance of any Cart.

“Standard Plan Pre-Approval” means standardized blueprints for vending carts, stands, racks, and other facilities designed for use as a compact mobile food facility, that have been pre-approved by the County Health Department.

“Stationary Sidewalk Vendor” means a sidewalk vendor who vends from a fixed location. “Special Event” means any event permitted pursuant to Chapter 9.61 of the Municipal Code.

“Swap Meet” means a location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that Chapter, or any successor Chapter.

“Vend” or “Vending” means the sale or offering for sale of any goods or merchandise to the public from either a sidewalk vendor or a vehicle (food truck).

8.06.020 Sidewalk Vendor Permit Required

- A. No Person, either for themselves or any other Person, shall engage in any Sidewalk Vendor Activities within the City without first applying for and receiving a Sidewalk Vendor Permit from the City.
- B. A written application for a Sidewalk Vendor Permit shall be filed with the City on a form provided by the City. Such application shall be accompanied by a nonrefundable application fee in such amount as established by Resolution of the City Council. Any such permit shall be required to be renewed annually in conjunction with the Business License and a separate nonrefundable application fee paid yearly for such renewal application. Sidewalk Vendor Permit(s) are non-transferable and any change in ownership or operation of Cart requires a new permit.
- C. The written application shall include the following information:
 - 1. An address where the applicant consents to receive service of process. An acceptable address for this purpose shall include a post office box or private mailbox that complies with paragraph (2) of subdivision (b) of Business & Professions Code Section 17538.5.
 - 2. A schedule of the applicant's proposed hours of operation, items of sale, and area/locations of operation.
 - 3. A description of all vending equipment, (including evidence of County Department of Health approval of such equipment, if required), information identifying the approved kitchens for food preparation and location where

cart will be stored (Section 8.06.077), and signs, or other means of advertisement proposed to be used.

4. For all Food vending applications, evidence of a permit from the County Health Department for the sale of food or beverages, as may be required. A County Health Permit may not be required in certain circumstances for sidewalk vendors and other compact mobile food, whose operations are less than 25 square feet or less of display area that sells only bagged snacks, cans of soda, bottled water, whole fruits and vegetables, canned goods that do not need to be refrigerated, and other similar foods. However, a food handler's card is required. (Reduced Testing Requirements).
5. Evidence of Commercial General Liability Insurance.
6. Copy of a United States or California State issued identification with photo identification, and taxpayer identification number.
7. A California seller's permit number pursuant to Section 6067 of the Revenue and Taxation Code that designates "City of Westminster" as a location or sublocation.

8.06.030 Issuance of Permit

A. The City will issue the Sidewalk Vendor Permit if they find, based on all of the relevant information, that:

1. The conduct of the Sidewalk Vendor will not unduly interfere with traffic or pedestrian movement, or interfere with or endanger the public health, safety or general welfare or encourage loitering.
2. The conduct of the Sidewalk Vendor will not unduly interfere with normal governmental or City operations, result in damage or detriment to public property, or result in the City incurring costs or expenditures in either money or personnel not reimbursed in advance by the Sidewalk Vendor.
3. The conduct of such Sidewalk Vending Activity will not constitute a fire hazard.
4. The Sidewalk Vendor has paid all previous administrative fines, completed all community service, and completed any other alternative disposition associated in any way with a previous violation of this Chapter.
5. The Sidewalk Vendor has not had an individual or business permit or license with any agency, board, city, county, territory, or state denied, revoked, restricted, or suspended within the last five years.
6. The Sidewalk Vendor application contains all required information and the Sidewalk Vendor has not made a materially false, misleading or fraudulent statement of fact to the City in the application process.
7. The Sidewalk Vendor has paid the Business License Tax and produced evidence of a California Seller's permit.
8. The Sidewalk Vendor's Cart and proposed Activities conform to the requirements of this Chapter.

9. The Sidewalk Vendor has provided adequate insurance to protect the City from liability associated with Sidewalk Vendor Activities, as determined by the City.
10. The Sidewalk Vendor has not been convicted of any misdemeanor, which is sexual in nature or involving moral turpitude or of any felony within five years of the date of application submittal.

8.06.040 Denial of Sidewalk Vendor Permit

- A. If the City finds that the requirements set forth in Section 8.06.030 have not been met, he or she shall deny the application for the Sidewalk Vendor Permit. The Community Development Director shall provide written notice of such denial specifying the ground or grounds of such denial. Notice of denial of the application for the Permit shall be deemed to have been served upon the date it is personally served on the applicant or three days following the date the notice is deposited in the United States mail with postage prepaid and addressed to the Sidewalk Vendor at the residence address set forth in the application for the Permit.
- B. No Person whose permit is denied shall be eligible to apply for a new Sidewalk Vendor Permit for a period of one year following such denial. The date of denial shall be the expiration of the appeal period.

8.06.050 Revocation of Permit

- A. Any Sidewalk Vendor Permit may be revoked by the Community Development Director for good cause shown including but not limited to any of the following reasons:
 1. Falsification of any information supplied by the Sidewalk Vendor upon which issuance of the Permit was based.
 2. Failure of the permittee, or any employees or subcontractors of the permittee, to comply with the regulations set forth in this Chapter or the requirements of the California Retail Food Code (Health & Safety Code).
 3. A threat or harm to public health, safety or welfare resulting from Sidewalk Vending Activity of the permittee, including but not limited to County Health Department citations/complaints due to food borne illness stemming from sidewalk vendor and failure to comply with the California Retail Food Code (Health & Safety Code).
 4. Upon a fourth violation or a subsequent violation of any requirement of this Chapter.
- B. Notice of Intent to Revoke a Sidewalk Vending Permit, with any and all specific grounds for revocation, shall be served in writing no less than 30 calendar days before revocation to the address listed in the application or to any subsequent address provided to the City by the permittee. The Notice shall include a date, time, and address for a hearing before the Community Development Director

where the Sidewalk Vendor Permittee shall have opportunity to present evidence as to why their permit should not be revoked.

- C. No Sidewalk Vendor whose permit is revoked shall be eligible to apply for a new permit until the expiration of the term of the rescinded permit.

8.06.060 Appeal Process

- A. Any Person whose application for a Sidewalk Vendor Permit has been denied or revoked may appeal such decision by filing a written notice of appeal with the City Clerk within 10 days following the date of service of the decision and payment of the appeal fee, which fee shall be established by Resolution of the City Council. The date of filing shall be the date the City Clerk receives the notice and appeal fee. The notice of appeal shall fully set forth the grounds upon which the appeal is based.
- B. Upon receipt of a timely appeal, a Hearing Officer, shall hear such appeal within 20 days following the date of filing such appeal and shall give the appellant not less than five days advance notice of the date of such hearing. The decision of the Hearing Officer shall be based upon the criteria set forth in this Chapter. The appellant shall be notified of the decision of the Hearing Officer by mailed written notice. The decision of the Hearing Officer shall be final. No revocation or denial of a permit pursuant to this section shall be deemed final or effective during the pendency of a timely filed appeal until the date of mailing of the Hearing Officer's decision affirming such revocation or denial; provided, however, no permit holder shall operate during any period of time in which the insurance coverage required by this chapter is not in full force and effect.

8.06.070 Operating Conditions

Every Sidewalk Vendor is subject to the following operating conditions when conducting Sidewalk Vending Activities:

- A. All Food and Merchandise shall be stored either inside or affixed to the Cart or carried by the Sidewalk Vendor. Food and Merchandise shall not be stored, placed, or kept on any public property. If affixed to the Cart, the overall space taken up by the Cart shall not exceed the size requirements provided in this Section.
- B. The Business License, California Seller's Permit and Vendor Permit shall be displayed conspicuously at all times on the Cart or the Sidewalk Vendor. If multiple Sidewalk Vendors are staffing a Cart each Person shall obtain and wear his or her Vendor Permit on their Person in a conspicuous manner.
- C. Sidewalk Vendors shall not leave their Cart unattended.
- D. All signage and advertising related in any way to the Sidewalk Vendor shall be stored either inside or affixed to the Cart. Signage and advertising shall not be stored, placed, or kept on any public property. If affixed to the Cart, the overall

space taken up by the Cart shall not exceed the size requirements provided in this Section. Signage shall also comply with the requirements set forth in Section 17.330.040 Prohibited Signs. Sidewalk Vendors shall not use any electrical, flashing, wind powered, or animated sign.

- E. All Sidewalk Vendors shall allow a police officer, firefighter, code enforcement officer, health inspector, or other government official charged with enforcing laws related to Sidewalk Vendor Activities, at any time, to inspect their Carts for compliance with this Chapter.
- F. Except as otherwise permitted under Federal, State or local law or regulation, Carts and attachments thereto shall not exceed a total height of four feet, a total width of four feet, and a total length of four feet. Only umbrellas may be used as an attachment to the cart and are allowed to exceed the total height of four feet, but no higher than eight feet. The umbrella must also provide a minimum of seven feet of vertical clearance.
- G. Sidewalk Vendors selling Food shall have in their possession at all times they are conducting Sidewalk Vending Activities, all applicable County and State Food vending licenses.
- H. Sidewalk Vendors that sell Food shall maintain a trash container in or on their Cart and shall not empty their trash into public trashcans. The size of the Sidewalk Vendor's trash container counts as part of the size limit of a Cart.
- I. Sidewalk Vendors shall not leave any location without first picking up, removing, and disposing of all trash or refuse from their operation. Sidewalk Vendors shall immediately clean up any Food, grease or other fluid or item related to Sidewalk Vending Activities that falls on public property. Sidewalk Vendors shall follow all (NPDES) National Pollution Discharge Elimination System regulations for illicit discharge.
- J. Sidewalk Vendors shall maintain a minimum four-foot clear accessible path for pedestrian ingress and egress free from obstructions, including Cart and customer queuing area.
- K. Sidewalk Vendors shall ensure that all required insurance is in effect prior to conducting any Sidewalk Vendor Activities and maintained for the duration of the Permit.
- L. Sidewalk Vendors shall not utilize sound amplifying equipment nor non-amplified musical or noise making devices.
- M. Sidewalk Vendors shall not utilize tables or chairs. Common prohibited uses of tables and chairs include the support of Food and Merchandise, and the creation of an unpermitted outdoor dining area.

8.06.075 Operating Conditions and Equipment Requirements For Compact Mobile Food Operation (Sidewalk Vendors)

- A. Sidewalk vendors and other compact mobile food operations with 25 square feet or less of display area that sell only bagged snacks, cans of soda, bottled water, whole fruits and vegetables, canned goods that do not need refrigeration, and other similar foods are exempt from the requirement to obtain a health permit from the County Health Department. Instead, only a food handler's card is required.
- B. Unenclosed mobile food facilities such as compact mobile food operations allow the sidewalk vendor to conduct the following "limited food preparation" activities in the field rather than at a commissary.
 - 1. Slicing and chopping of non-potentially hazardous fruits and vegetables.
 - 2. Pre-cooking food in an approved kitchen and "hot-holding" or "cold-holding" that food prior to service from a vending cart.
 - 3. Re-heating food that was previously prepared in an approved kitchen.
- C. Reduced Equipment Requirements for compact mobile food operations include, but are not limited to the following:
 - 1. Use of Auxiliary Handwashing and Warewashing Facilities.
 - 2. Reduced Sink, Water Tank and Water Heater Requirements.
 - 3. Use of Integral Equipment.
 - 4. Vending cart consistent with County Health Department standard blueprint plan design that has already received authorization by the County Health Department.

8.06.077 Use of Approved Kitchens by Sidewalk Vendors for Compact Mobile Food Operations.

- A. Sidewalk Vendor Use of Existing Approved Kitchen Spaces. The County Health Department may approve existing permitted food facilities, such as restaurants, any kitchen facility used as a commissary, as well as any church, school, library, community center and other facilities with commercial grade kitchens to provide an approved space for sidewalk vendors to safely prepare food and store compact mobile food operation facilities like vending carts or stands.
- B. A home being used as a cottage food operation or a microenterprise home kitchen operation may serve as a food preparation and storage space for a compact mobile food operation if the County Health Department deems the home to have adequate facilities to support the compact mobile food operation. No more than two compact mobile food operations can be stored in a private home unless specifically approved by the county health department.

8.06.080 Prohibited Activities and Locations

- A. Sidewalk Vendors shall comply with all Federal, State, County, and local laws and regulations.
- B. Cart(s) shall not touch, lean against or be affixed at any time to any building or structure including, but not limited to lampposts, parking meters, mailboxes, traffic signals, fire hydrants, benches, bus shelters, newsstands, trashcans or traffic barriers.
- C. Sidewalk Vendors shall not engage in any of the following activities:
 - 1. Renting Merchandise to customers.
 - 2. Displaying Merchandise or Food not available for immediate sale.
 - 3. Selling of alcohol, Marijuana, adult-oriented material, material displaying profane language or obscenities, tobacco products, products that contain nicotine or any product used to smoke/vape nicotine or Marijuana.
 - 4. Using an open flame on or within any Cart, except as otherwise permitted under Federal, State, or local law.
 - 5. Using an electrical outlet or power source that is owned by the City or another person other than the Sidewalk Vendor.
 - 6. Conducting Sidewalk Vending Activities anywhere in the City between the hours of 12:00 a.m. and 7:00 a.m. adjacent to Commercial Uses. Conducting Sidewalk Vending Activities anywhere in the City between the hours of 10:00 p.m. and 7:00 a.m. adjacent to any other uses.
 - 7. Continuing to offer Food or Merchandise for sale, following, or accompanying any person who has been offered Food or Merchandise, after the person has declined the offer to purchase Food or Merchandise.
 - 8. Knowingly making false statements or misrepresentations during the course of offering Food or Merchandise for sale.
 - 9. Blocking or impeding the path of the person(s) being offered Food or Merchandise to purchase.
 - 10. Making any statements, gesture, or other communication which a reasonable person in the situation of the person(s) being offered Food or Merchandise to purchase would perceive to be a threat and which has a reasonable likelihood to produce in the person(s) a fear that the threat will be carried out.
 - 11. Touching the person(s) being offered Food or Merchandise without that person(s)' consent.
 - 12. Placing their Cart outside of any Pathway or sidewalk when engaging in Sidewalk Vending Activities.
 - 13. Placing any cables or wires across any Pathway or sidewalk when engaging in Sidewalk Vending Activities.

D. Sidewalk Vendors shall not engage in Sidewalk Vending Activities at the following locations:

1. Any Residential Zone in the City. This restriction only applies to Stationary Sidewalk Vendors.
2. Parks.
 - a. Stationary Sidewalk Vending is prohibited in all Parks where the City has granted exclusive restaurant concessions (including Buckingham Park, Westminster Park, and any location the City may award an exclusive restaurant concessions in the future).
 - b. Roaming sidewalk vendors are permitted in parks even if an exclusive concession has been granted.
3. The Civic Center, other city owned buildings, including but not limited to any police station, fire station, public works yard, community services building or senior center, except as otherwise permitted under a Special Event Permit.
4. Any City Property that does not meet the definition of a sidewalk or pathway including, but not limited to, any alley, square, street, street end, or parking lot.
5. An area designated for barriers for protection of the public.
6. Within 200 feet of:
 - a. A public or private school.
 - b. A place of worship.
 - c. A large or general child day-care facility.
 - d. A permitted Certified Farmers' Market or Swap Meet during the limited operating hours of that Certified Farmers' Market or Swap Meet.
 - e. An area designated for a Special Event pursuant to a City issued permit, during the limited duration of the Special Event.
7. Within 100 feet of:
 - a. Another Sidewalk Vendor.
 - b. The intersection of a street and a Sidewalk.
 - c. The portion of any City facility that is renting or selling Merchandise or selling Food to the public or where the rental Merchandise is stored.
 - d. Any police officer, firefighter, or emergency medical personnel who are actively performing their duties or providing services to the public.
8. Within 25 feet of a:
 - a. Fire hydrant.
 - b. Curb which has been designated as white, yellow, green, blue, or red zone, or a bus zone.
 - c. Automated teller machine.
 - d. Driveway, alley, or entrance to a parking lot or parking garage.
 - e. Entrance or exit to a building, structure, or facility.
 - f. Trash receptacle, bike rack, bench, bus stop, restroom, public catch basins, or similar public use items.

8.06.090 Penalties

A. A violation of this chapter by a sidewalk vendor who has a valid sidewalk vending permit from the City is punishable only by an administrative citation pursuant to Chapter 1.14 in an amount not to exceed the following:

1. An administrative fine not exceeding \$100.00 for a first violation.
2. An administrative fine not exceeding \$200.00 for a second violation within one year of the first violation.
3. An administrative fine not exceeding \$500.00 for each additional violation within one year of the first violation.

B. If a Sidewalk Vendor violates any portion of this Chapter and cannot present the citing officer with proof of a valid permit, the Sidewalk Vendor shall be assessed administrative fines in the following amounts:

1. An administrative fine not exceeding \$250.00 for a first violation.
2. An administrative fine not exceeding \$500.00 for a second violation within one year of the first violation.
3. An administrative fine not exceeding \$1,000.00 for each additional violation within one year of the first violation.

C. Upon proof of a valid permit issued by the City, the administrative fines set forth in Subsection 8.06.090 B shall be reduced to the administrative fines set forth in Subsection 8.06.090 A, or any successor sections.

D. The Community Development Director, or the Community Development Director's designee, may revoke a permit issued to a Sidewalk Vendor for the term of that permit upon the fourth violation or subsequent violations within one year of the first violation.

E. A violation of this chapter shall not be punishable as an infraction or misdemeanor. No person alleged to have violated the provisions herein shall be subject to arrest except when otherwise permitted by law.

F. Failure to pay an administrative citation issued pursuant to this section shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions, beyond those authorized herein shall not be assessed.

8.06.100 Citation Appeals

A. Administrative citations may be appealed pursuant to Section 1.14.060, except where the hearing officer is considering an administrative fine, he or she has the power to:

1. Reduce the fine based upon the person's ability to pay the fine.
2. If the Hearing Officer finds the person meets the criteria described in subdivision (a) or (b) of Government Code Section 68632, or any successor section, the Hearing Officer shall order the City to accept, in full satisfaction, 20% of the administrative fine imposed pursuant to this Chapter.

3. The Hearing Officer may allow the person to complete community service in lieu of paying the total administrative fine, may waive the administrative fine, or may offer an alternative disposition.

B. All appeals of administrative citations shall be conducted in accordance with Chapter 1.14 of this Code.

SECTION 2. Section 10.44.120 titled "Peddlers and vendors – Permit – Requirements" of Article I titled "Uniform Traffic Ordinance" of Title 10 titled "Vehicles and Traffic" is hereby repealed in its entirety.

SECTION 3. Chapter 10.45, Sale of Goods from Vehicles is hereby added to Title 10 (Vehicles & Traffic) of the Westminster Municipal Code as follows:

Sections:

Chapter 10.45 Sale of Goods from Vehicles

- 10.45.010 Purpose.
- 10.45.020 Definitions.
- 10.45.030 Vending on private property prohibited – Exemption.
- 10.45.038 This Chapter shall not apply to sidewalk vending contained in Chapter 8.06.
- 10.45.040 Regulations for vending from vehicles.
- 10.45.050 Application for vendor's permit—Contents—Required fee
- 10.45.060 Investigation of applications.
- 10.45.070 Issuance of Permit.
- 10.45.080 Denial of Permit.
- 10.45.090 Revocation of permit.
- 10.45.100 Appeals.
- 10.45.110 Exemptions.
- 10.45.120 Impounding unlawfully parked vehicles.
- 10.45.130 Impounding and seizure of goods – Procedure.

10.45.010 Purpose

The purpose and intent of the Chapter 10.45.015 is to regulate the sale of food, food products, ice cream, goods, or merchandise from motor vehicles on public and private property and to protect the health and safety of people within the City. Section 22455 of the California Vehicle Code authorizes municipalities to regulate the type of vending from motor vehicles and the time, place, and manner of vending from vehicles upon streets. Unregulated vending from mobile vending facilities on public streets impairs traffic safety, the safety of pedestrians, contributes to traffic congestion and therefore impedes the orderly movement of pedestrians and motorist traffic. This Chapter is not intended to repeal or amend the provisions of this Code that provide for licensing or permit procedures for the conduct of certain business activities.

This chapter shall not apply to sidewalk vending which is subject to regulations contained in Chapter 8.06 (Sidewalk Vending).

Ordinance— WMC Chapter 8.06 & 10.44.120
Sidewalk Vending & Food Trucks
May 10, 2023

10.45.020 Definitions.

For purposes of this Chapter, the following words and phrases shall have the following meanings. Whenever any words or phrases used herein are not defined but are defined in the California Health and Safety Code or the Vehicle Code, such definitions shall apply. If a term or phrase is not defined in this part, or elsewhere in this Code, the most common dictionary definition is presumed to be correct.

“California Retail Food Code” means the health, safety, and sanitary requirements of the California Health & Safety Code.

“Community Development Director” means the Community Development Director or a designee they select to make determinations pertaining to this chapter.

“Food” means any item provided in Health and Safety Code Section 113781, or any successor section.

“Food truck” or “Mobile food truck” means a licensed, motorized vehicle or mobile food unit licensed by the California Department of Motor Vehicles, if applicable, designed and equipped to prepare, or serve, and sell food, and temporarily stored in a location where food items are sold to the general public.

“Ice Cream truck” means a licensed, motorized vehicle or mobile unit designed and equipped to serve, and sell ice cream, candy or snacks to children.

“Goods” or “merchandise” includes items and products of every kind and description, including all foods, produce and beverage items.

“Hearing Officer” is the contractor hired by the City to impartially consider appeal and requests and decide on the outcome of appeals.

“Human-powered device” means any device moved by human power, including, but not necessarily limited to, any pushcart, wagon, bicycle, tricycle, shopping cart, or other wheeled container or conveyance.

“Marijuana” means both medical marijuana and non-medical marijuana.

“Merchandise” means any tangible personal property that can be sold and immediately obtained from a Food Truck or Mobile Food Truck, excluding Food. Items for rent shall not be considered Merchandise. Merchandise excludes any services.

“Park” means each and every park recreation center, sporting field, hiking trail, walking track, garden, barbecue, picnic area, and every other recreation facility owned, managed and/or controlled by the city and under the jurisdiction of the Director of Community Services including parking lots attached thereto.

“Permitted parking space” means the location where a mobile food truck is permitted to prepare, serve, and sell food, as identified and approved by the city.

“Person” means and includes any individual person or persons, all domestic and foreign corporations, associations, syndicates, sole proprietorships, limited liability companies, joint stock corporations, partnerships of every kind, clubs, business or common law trusts, societies, and other individuals transacting and carrying on any business in the city.

“Public property” means any real property, or interest, therein, owned, leased, operated or otherwise controlled by the city, either wholly or jointly with another public agency, other than a street, alley, parkway or sidewalk.

“Residential zone” or “zoned for residential purposes” means any property which, by ordinance of the city, is then currently classified into any one of the residential zones specified in the code in which residential dwellings are an expressly permitted use.

“Special Event” means any event permitted pursuant to Chapter 9.61 of the Westminster Municipal Code.

“Used for residential purposes” means any lot or parcel of property any portion of which is being lawfully used as a residential dwelling.

“Vehicle” means as defined in the Vehicle Code of the state of California, and shall not include any human-powered device.

“Vend” or “vending” means the sale or offering for sale of any goods or merchandise to the public from a vehicle.

“Vendor” means any person who engages in the act of or owns a business involving vending from a vehicle or who drives or otherwise operates any such vehicle for the purpose of vending therefrom.

10.45.030 Vending on private property prohibited—Exemption.

It is unlawful for any person to engage in vending from a vehicle on private property unless: (1) the person is providing meals from vehicles for those living or working on such private property, and provided the period of such vending does not exceed one hour; or (2) the vending is occurring at a community special event for which a community events permit has been issued pursuant to the requirements of Chapter 9.61.

10.45.038 This Chapter shall not apply to sidewalk vending which is subject to regulation contained in Title 8 (Health & Safety) Chapter 8.06 (Sidewalk Vending)

10.45.040 Regulations for vending from vehicles.

It is unlawful for any person to sell or offer for sale, or operate any vehicle or conduct any business for the purpose of causing the sale of or offering for sale, any goods or merchandise from any vehicle parked, stopped or standing upon any public street, alley, parkway, sidewalk or other public property in the city except in accordance with all applicable provisions of this code and in compliance with each of the following requirements:

A. Permit/License Requirements

1. Each operator of such mobile food truck shall possess and at all times display in conspicuous view upon each such vehicle a city business license issued, pursuant to Section 5.08 of this code.
2. Each operator of such mobile food truck shall possess and at all times display in conspicuous view upon each such vehicle an unexpired and unrevoked vendor's permit pursuant to Sections 10.45.050 and 10.45.070 of this chapter.
3. Each operator of a mobile food truck shall possess a California seller's permit number pursuant to Section 6067 of the Revenue and Taxation Code.
4. Each mobile food truck operator causing the sale of or offering for sale any produce or other food item for which a food handler's permit or other health permit is required by law shall possess and at all times display such required permit(s) in conspicuous view upon such vehicle and shall also display the letter grade issued by the department of public health of the county of Orange. Mobile food truck operations shall comply with the California Retail Food Code (Health and Safety Code).

B. Vehicle/Equipment Restrictions/Requirements

1. Such vending shall be only by means of a vehicle duly registered and licensed by the state of California with an unladen weight of less than five thousand pounds.
2. No mobile food truck shall be equipped with any amplified sound making device which is used to draw attention to, or announce the presence of, such vehicle upon any public street. Nonamplified sound making devices shall be permitted for such purposes provided: (1) such sounds shall not be made while the vehicle is stopped, parked or otherwise in a stationary position; and (2) such sounds shall not be audible to a person with normal hearing for a distance of more than two hundred feet.

C. Health & Safety Requirements

1. All foods, beverages, utensils, and equipment offered for sale or utilized on vending vehicles shall at all times be protected from contamination and pollution by dust, dirt, flies, vermin, rodents, animals, unnecessary handling, droplet infection, overhead leakage, insecticides, rodenticide, cleaning compounds, and other poisonous or deleterious substances, and all other forms of contamination.
2. Any mobile food truck operator or vendor using scales or any other weighing or measuring devices shall have all such scales and devices inspected and sealed by the weights and measures division of Orange County.

D. Location, Hours of Operation, Time Limits & Frequency

1. Mobile food trucks shall not be allowed within residential zones or parks, unless parked directly adjacent and abutting to a park.
2. No mobile food truck shall be parked, stopped, or left standing in any manner which blocks or impedes vehicular access to any driveway or restricts the free movement of other vehicles upon the public street.
3. No mobile food truck shall be located within two hundred feet of another mobile food vendor.
4. Vending from mobile food trucks shall be limited to only public streets, where the authorized speed limit is 35 miles per hour or less, and shall not be permitted upon any alley, parkway, sidewalk or other public property unless the vending is occurring at a community special event for which the food truck is under the umbrella of a community special events permit issued pursuant to the requirements of Chapter 9.61.
5. Vending is prohibited on public streets in any location without an unobstructed view of 200 feet in each direction.
6. No vending from a mobile food truck shall be permitted within sixty feet of any intersection of two or more public streets nor within five hundred feet of any public or private elementary, junior high or high school unless the vending is occurring at a community special event for which a community special events permit has been issued pursuant to the requirements of Chapter 9.61.
7. No vending from such vehicle shall be permitted for a period of time in excess of one hour in any one location and said vehicle must be moved a distance of not less than one hundred feet between consecutive stops at which vending occurs unless the vending is occurring at a community special event for which

- a community special events permit has been issued pursuant to the requirements of Chapter 9.61.
8. Each ice cream truck which sells ice cream primarily to children and their parents shall be equipped with a sign mounted to the rear of the vehicle warning of the presence of children. Said sign shall be in letters in sharp contrast to the background and shall be of such size, shape, and color as to be readily legible during daylight hours from a distance of fifty feet. The sign shall state, "Warning Children Present."
 9. Mobile food trucks must not occupy any accessible parking spaces or impede the required path of travel to any accessible parking spaces.
 10. All mobile food trucks must be parked on asphalt, concrete, or other hard all-weather surface.
 11. Mobile food trucks shall not require use of more than twenty-five (25) percent of existing parking spaces.
 12. Frequency: Mobile food trucks shall be permitted, on each property, a maximum of no more than three (3) days per calendar week. Mobile food trucks may operate at different locations throughout the City.
 13. Hours of operation. Mobile food trucks may operate at any time between the hours of 8:00 a.m. and 10:00 p.m. If the mobile food trucks are located on private property during the property owner's business hours, the mobile food truck may not occupy the required parking for the principal's use. If the mobile food truck is occupying required parking for the principal use, its operation must be during the principal use's nonpeak hours of operation.
 14. Mobile food trucks shall not be parked on grass or dirt areas.
 15. The maximum number of mobile food trucks per lot is limited as follows:
 1. Maximum of two mobile food trucks on lots of one-half acre or less;
 2. Maximum of three mobile food trucks on lots between one-half acre and one acre; and
 3. Maximum of four food trucks on lots greater than one acre.

E. Operation Requirements

1. Each mobile food truck shall be equipped with a trash receptacle of a size adequate to accommodate all trash and refuse generated by such vending.
2. Each mobile food truck vendor shall pick up and deposit in the trash receptacle on the vehicle any paper, cups, wrapper, litter, or other refuse of any kind, which were a part of the goods or merchandise supplied from the vehicle and which have been left or abandoned within twenty-five feet of such vehicle on any property other than in a trash receptacle provided for such purposes. No operator of a mobile food truck shall dispose of any trash or refuse in any such public or private trash receptacle other than a trash receptacle owned, operated, or otherwise provided by and under the control of such vendor.
3. No vending shall be permitted except after the vehicle has been brought to a complete stop and parked adjacent to the curb in a lawful manner.
4. No sales or service of alcohol or marijuana shall be allowed by mobile food trucks.
5. The owner or operator of a mobile food truck shall not connect the mobile food truck to a source of electricity, water, or sewer where the mobile food truck is operated.

6. No minor under the age of sixteen shall ride in or upon a mobile food truck when such vehicle is engaged in or about to be engaged in vending. The mobile food truck vendor or their designee must be present at all times while operating, except in cases of an emergency.
7. Mobile food trucks are prohibited from selling to individuals traveling within motor vehicles on a public street.

10.45.050 Application for vendor's permit—Contents—Required fee.

Any person desiring to obtain a vendor's permit to engage in the vending of goods or merchandise from a vehicle, or driving of such vehicle, pursuant to this section shall make application to the Director of Community Development or his/her designee. Such application shall be accompanied by a nonrefundable application fee in such amount as established by resolution of the city council. Any such permit shall be required to be renewed annually and a separate nonrefundable application fee paid yearly for such renewal application. Each applicant for a vendor's permit shall furnish the following information and documentation as part of or in conjunction with such application:

- A. The present or proposed address from which the business is to be conducted;
- B. The full true name under which the business will be conducted;
- C. The full true name and any other names used by the applicant;
- D. The present residence address and telephone number of the applicant;
- E. California driver's license number of the applicant;
- F. Acceptable written proof that the applicant is at least eighteen years of age;
- G. A description of the goods or merchandise which the business will vend;
- H. The number of vehicles to be owned, operated, or controlled by the applicant and the makes, body styles, years, serial and engine numbers, state license plate numbers, and names and addresses of the registered and/or legal owners of each vehicle;
- I. A description of the logo, color scheme, insignia and any other distinguishing characteristics of applicant's vehicles;
- J. The permit history of the applicant, for the three-year period immediately preceding the date of the filing of the application, including whether such applicant, in previously operating in this or any other city, county, state or territory, has ever had any similar license or permit, or franchise revoked or suspended, and if so, the circumstances of such suspension or revocation;
- K. Such other identification and/or information as the Director of Community Development may require in order to discover the truth of the matters required to be set forth in the application;
- L. When any change occurs regarding the written information required by Section 10.45.050, prior to issuance of a permit, the applicant shall give written notification of such change to the Director of Community Development or his/her designee within two weeks after such change.

10.45.060 Investigation of applications.

The Director of Community Development or his/her designee shall refer all applications for vendor's permits made pursuant to this chapter to the police department for investigation and recommendation. The police department shall have a reasonable

period of time within which to investigate the application and background of the applicant for a vendor's permit. The police department shall, within thirty days after the date of the filing of the application, render a written recommendation to the city business license department as to approval or denial of the application for the permit based upon the criteria set forth in Section 10.45.050 and 10.45.070.

10.45.070 Issuance of permit.

The Director of Community Development or his/her designee within 10 days after receiving the aforementioned recommendation of the police department shall grant the vendor's permit only if it finds that all of the following requirements have been met:

- A. The required fees have been paid;
- B. The application conforms in all respects to the provisions of this chapter;
- C. The applicant has not made a material misrepresentation of fact in the application;
- D. The applicant has not had a similar permit denied or revoked by the city within a period of one year prior to the date of such application;
- E. The applicant if an individual; or any of the directors, officers or stockholders holding more than five percent of the stock of the corporation; or any of the partners, including limited partners, or profit interest holder, manager or other person principally in charge of the operation of the existing or proposed business of vending from a vehicle or a natural person employed or contracted with to be a driver or vendor has not been convicted or pleaded nolo contendere or guilty within five years prior to his or her application for a permit to a misdemeanor or felony crime of moral turpitude or drug-related misdemeanor or felony crime, including, but not limited to: the sale of a controlled substance specified in California Health and Safety Code Sections 11054 through 11058; the sale, distribution or display of harmful or obscene matter; indecent exposure; or in the case of applications for a vendor's permit by a person who will be a driver of a vehicle pursuant to this section, alcohol or drug-related traffic offenses. The investigating city employee is specifically authorized to obtain state summary criminal history record information as provided for in California Penal Code Section 11105. Any complaint for the above-listed charges pending before a court of law shall cause the application to be considered pending until adjudication of the complaint.

10.45.080 Denial of permit.

If the Director of Community Development or his/her designee does not find that all of the requirements set forth in Sections 10.45.050, 10.45.060 and 10.45.070, as applicable have been met, the Director of community development or his or her designee, shall deny the application for the vendor's permit. In the event the application for the permit is denied by the Director of Community Development, written notice of such denial shall be given to the applicant specifying the ground or grounds of such denial. Notice of denial of the application for the permit shall be deemed to have been served upon the date it is personally served on the applicant or when deposited in the United States mail with postage prepaid and addressed to the applicant at his or her residence address as set forth in the application for the permit.

Any applicant whose application for a vendor's permit has been denied by the Director of Community Development may appeal such denial to the hearing officer by filing a written notice of appeal within ten days following the date of service of the decision.

The date of filing of said notice of appeal shall be the date said notice is received by the city clerk.

No person or entity whose permit is finally denied shall be eligible to apply for a new permit for a period of one year following such final denial.

10.45.090 Revocation of permit.

Any vendor's permit may be revoked by the Director of Community Development or his/her designee for good cause shown including but not necessarily limited to any of the following reasons:

A. Falsification of any information supplied by the permittee upon which issuance of the permit was based;

B. Failure of the permittee, or any employees or subcontractors of the permittee, to comply with the regulations set forth in this section;

C. Conviction of a violation, or a plea of guilty or nolo contendere, by the permittee, or any employee, subcontractor or independent contractor of the permittee, of any state law, county health department regulation or municipal ordinance while in the course of conducting vending operation from a vehicle pursuant to the permit;

D. Conviction of a violation, or pleas of guilty or nolo contendere, by the permittee of any applicable provision or requirement of this section;

E. No such revocation shall become effective until expiration of the appeal period specified in Section 10.45.100. Notification of the permit holder shall be made either by personal delivery or by certified or registered mail, return receipt requested, addressed to the permit holder at such permit holder's residence address as set forth on the application for a permit. Services shall be deemed made on the permit holder on the date personally delivered or on the date of mailing. A permit holder may appeal such revocation to the hearing officer by filing a written notice of appeal with the Director of Community Development within ten days following the date of service of such decision. The date of filing of said notice of appeal shall be the date said notice is received by the Director of Community Development. If a timely appeal is filed, the revocation shall be stayed pending the decision of the hearing officer. Otherwise, the suspension or revocation shall become effective immediately upon expiration of said appeal period.

F. No person or entity whose permit is revoked shall be eligible to apply for a new permit for a period of one year following such revocation.

10.45.100 Appeals.

Upon receipt of a timely appeal pursuant to Sections 10.45.080 and 10.45.090, the hearing officer, or his/her designated representative, shall hear such appeal within twenty days following the date of such appeal and shall give the appellant not less than five days' advance notice of the date of such hearing. The decision of the hearing officer shall be based upon the same criteria as set forth in this chapter which are applicable to the issuance or revocation of such permit. The appellant shall be notified of the decision of the hearing officer by mailed, written notice. The decision of the hearing officer shall be final. No revocation of a permit pursuant to this section shall be deemed effective during the pendency of a timely filed appeal until the date of mailing of the hearing officer's decision. The city may establish an appeal fee from time to time by resolution of the City Council, which fee must be paid concurrent with the filing of any appeal under this chapter.

10.45.110 Exemptions.

The requirements of this chapter shall not apply to:

A. Any person delivering any goods or merchandise by vehicle where such goods or merchandise has been ordered in advance for such delivery from any business located at a permanent location, and which goods or merchandise is being delivered from such location to the customer by vehicle, regardless of the point of sale thereof.

B. Any person engaged in the vending of goods or merchandise on public property, where such person has been authorized by the city to engage in such activity by a permit, lease, real property license, agreement or other entitlements issued by the city for such purpose.

10.45.120 Impounding unlawfully parked vehicles.

All police officers and parking control officers are authorized and empowered to remove or cause to be removed all vehicles parked, caused to be parked, or left parked upon any street or public parking lot or area contrary to the provisions of this chapter, or illegally parked, and to store the vehicle, and the owner or operator of the vehicle shall be liable for any reasonable towing and storage charges.

10.45.130 Impoundment and seizure of goods—Procedure.

A. Upon the citation or arrest of any person for violation of Section 10.45.030 or 10.45.040, the city may seize and impound all perishables and nonperishable goods in the possession of such person.

B. Following citation or arrest for violation of Section 10.45.030 or 10.45.040, any unlicensed person or vendor shall sign a declaration which shall declare, under penalty of perjury, the name and contact information of the rightful owner of the seized goods.

C. The city shall make a reasonable attempt to contact the rightful owner of any seized perishable goods, if other than the unlicensed person or vendor arrested or cited, in order to provide such rightful owner with an opportunity to retrieve the goods within twenty-four hours. Such rightful owner, as set forth in the declaration described in subsection B of this section, must present valid identification to the Director of Community Development or his/her designee before the city will release any seized goods. If the unlicensed person or vendor claims to be the rightful owner of the seized perishable goods, said person or vendor shall, as a condition precedent to retrieval of any perishable goods, present valid identification to the city's Director of Community Development or his/her designee, and shall sign the declaration described in subsection B of this section declaring him or herself to be the rightful owner of the same. In such case, the city shall provide said person or vendor the opportunity to either:

1. Contact, with one phone call, which one phone call shall be in addition to any other phone calls permitted by law to an arrestee, another individual to pick up the seized perishable goods, provided that the goods must be picked up within twenty-four hours; or

2. Sign a release allowing the city to immediately discard or donate such seized perishable goods.

D. Prior to releasing, disposing, or donating any perishable goods seized pursuant to this section, the city shall inspect and take photographs and any necessary samples of such goods to maintain as evidence.

E. The owner of any goods impounded or seized may request an impoundment hearing before a hearing officer appointed by the Community Development Director or designee. If perishable food items are seized, the enforcement officer may dispose of the perishable items immediately. By the end of the next business day following impoundment, the owner of the cart will be contacted at the telephone number given to the enforcement officer at the time of the citation or arrest, and the non-perishable items will be released to the owner upon proper proof of ownership, presentation of a business tax certificate, and the payment of all towing and administrative costs incurred as a result of the violation. Any unclaimed items will be considered abandoned and forfeited to the city ninety days after the city calls the owner to retrieve the impounded items, and the city may destroy or otherwise dispose of the impounded items pursuant to law.

F. Nothing contained in this section shall limit the ability of the city to cite the rightful owner of such seized perishable goods of this chapter.

G. The Director of Community Development, or designee, may adopt reasonable rules and regulations, not inconsistent with this chapter, in order to implement this chapter.

SECTION 4. Environmental Compliance: Pursuant to the provisions of the California Environmental Quality Act ("CEQA") (California Public Resources Code Sections 21000 et seq.) and State CEQA guidelines (Sections 15000 et seq.) the ordinance is not a "project" and further, that it can be seen with certainty that there is no possibility that the ordinance in question may have a significant effect on the environment, either directly or indirectly, and that therefore no environmental review under the CEQA is required, pursuant to CEQA Guidelines Section 15061 (b)(3).

SECTION 5. Severability: If any section, paragraph, sentence, clause, phrase or portion of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof. The Mayor and City Council of the City of Westminster hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed, and the balance of the ordinance be enforced.

SECTION 6. The Mayor shall sign as to the passage, approval, and adoption of this ordinance.

SECTION 7. The Interim City Clerk certifies that the Mayor and City Council introduced and conducted first reading on the 26th day of April 2023. The Interim City Clerk further certifies that the Mayor and City Council at its Regular Meeting on the 10th day of May 2023, conducted second reading, passed, and adopted Ordinance No. 2601 and shall affix their signature and City Seal and that same shall be entered into the Book of Ordinances.

SECTION 8. This Ordinance will be published in accordance with State Law.

PASSED, APPROVED, AND ADOPTED this 10th day of May 2023.

CITY OF WESTMINSTER


CHI CHARLIE NGUYEN
MAYOR

ATTEST:


for LUCIE COLOMBO, CMC, CPMC
INTERIM CITY CLERK

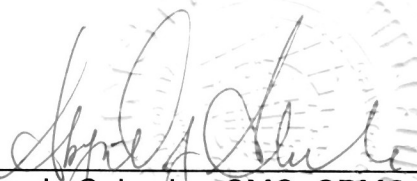
**CITY OF WESTMINSTER
CITY CLERK'S OFFICE**

**CERTIFICATION
OF
ORDINANCE**

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF WESTMINSTER)

I, LUCIE COLOMBO, CMC, CPMC, Interim City Clerk of the City of Westminster, do hereby certify that the foregoing Ordinance No. 2601 was introduced for first reading on the 26th day of April 2023, and duly passed, approved, and adopted by the City Council of the City of Westminster at a Regular Meeting held on the 10th day of May 2023, with the following vote:

AYES:	COUNCIL MEMBERS:	C. NGUYEN, N. NGUYEN, HO, MANZO, PHAN WEST
NOES:	COUNCIL MEMBERS:	NONE
ABSENT:	COUNCIL MEMBERS:	NONE
ABSTAIN:	COUNCIL MEMBERS:	NONE


for Lucie Colombo, CMC, CPMC
Interim City Clerk

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